
INTERPOL General Secretariat

Office of Legal Affairs (OLA)
200 quai Charles de Gaulle
69006 Lyon
France

Thursday, 16 February 2023

Re: Turkish Interior Ministry's decision to impose administrative measures on the passports of dissidents and the risk of potential abuse of INTERPOL systems

To Whom It May Concern,

We are contacting you on behalf of Solidarity with OTHERS, a Brussels-based NGO defending human rights with a particular focus on Turkey, to kindly bring to your attention a recent development that could potentially lead to an abuse of INTERPOL systems.

As you may know, the Turkish government responded to a coup attempt in July 2016 with draconian measures that had far-reaching human rights implications. Under a post-coup state of emergency between 2016 and 2018, Turkish authorities summarily dismissed more than 100,000 public sector workers through executive decree-laws, which infringed on the right to a fair trial as well as the legal principle of presumption of innocence. These individuals, along with many others caught in the post-coup mass detentions, saw their passports cancelled by the Ministry of Interior without due process, purportedly for security reasons.

Several reports published afterwards claimed that the Turkish government had attempted to register tens of thousands of passports as lost or stolen on INTERPOL's Stolen and Lost Travel Documents (SLTD) database and that INTERPOL had restricted Turkey's access to the database after finding the massive transaction suspicious.

In the light of that, our association sent detailed letters to INTERPOL General Secretariat and the Commission for the Control of INTERPOL's Files (CCF) regarding the abuse of the SLTD database as well as the attempts to issue politically motivated Red Notices. As an example, we shared with you a letter sent by the Ministry of Justice to the Ankara Chief Public Prosecutor's Office in which INTERPOL was criticized for rejecting Red Notice request and restricting Turkey's access to its databases. The letter had revealed the malicious intentions of the government as it confirmed that the purpose of lost or stolen registries was not to inform Member States but rather to locate the whereabouts of the passport holder during border crossings. The original of that letter is enclosed to this one as Annex-1.

We would like to present to you a new Ministry of Interior document that further reveals the government's intentions to harass dissidents, particularly members of the Gülen movement[1].

[1] The Turkish government accuses the Gülen movement of orchestrating the coup in July 2016. The movement and its leader denies any involvement. Turkey has listed the group as a terrorist organization. However, a majority of the international community has declined to do so.

The document, dated July 31, 2022 and signed by the Minister of Interior, announces an administrative decision to impose restrictions on 59,627 passports.

As of July 31, 2022, a total of 299,869 individuals were placed under such administrative measures, regardless of whether or not they had court orders against them. However, the Turkish Constitutional Court had previously issued a ruling that repealed the Additional Article 7 of the Passport Law No. 5682, which regulated the removal of administrative measures, on the grounds that the clause was found unconstitutional. At the same time, another legal provision regulating administrative measures, the Provisional Article 35 of the Decree Law No. 375 expired.

Realizing that all administrative measures on passports would become legally null and void as of August 1, 2022, the Interior Ministry issued a new decision based on Article 22 of the Passport Law on July 31, 2022, one day prior to the impending expiration, invalidating 59,627 passports. The original of the ministerial document stamped "Confidential" is enclosed as Annex-2 and its full translation as Annex-3.

The Ministry's decision on passports, which comes despite a clear Constitutional Court judgment on the matter, raises significant concerns that these passports will also be registered by Turkey into INTERPOL's SLTD database. If Turkey has entered or will enter some 60,000 passports into the SLTD database, this is the result of a new decision taken by the General Secretariat that has been reflected in the 2017, 2018 and 2019-2020 Activity Reports of the CCF commission.

The relevant sections of these reports are as follows;

"... In 2017, the General Secretariat consulted the Commission on the creation of a new category of document in the SLTD: revoked travel documents.

The Commission recalled that the SLTD database was put in place to enable law enforcement entities to prevent lost/stolen travel documents from being used in an illegal manner. It welcomed the General Secretariat's proposal to provide INTERPOL members with a limited list of appropriate purposes to record data in that database in order to avoid any misuse, and asked to be provided with the list of identified appropriate purposes.

The Commission insisted on the need to ensure that the definition of "revoked travel documents" is clear enough to prevent the possible misuse of the SLTD database, in particular to locate a person where a diffusion or a notice could not be issued. It also invited the General Secretariat to clarify the purpose of the SLTD and of the processing of revoked travel documents in the SLTD standard operating procedures." (CCF 2017 Activity Report, articles 30, 31 and 32)

CCF's 2018 Activity Report, Article 34 also stated the following;

"...The Commission was consulted on the creation of a new category of documents, called "invalid", which would include expired, damaged or destroyed travel documents. The Commission was concerned that this category could be misused or may not include an explanation as to why a document had been invalidated. The General Secretariat consequently updated the SLTD Standard Operating Procedures in order to clarify the conditions applicable to the quality of the data processed in the SLTD database that are required to comply with INTERPOL's rules."

The Commission also drew the General Secretariat's attention to the fact that, as travel documents could be registered in the INTERPOL Information System as "stolen/lost," "revoked" or "invalid," the database name no longer represents the content and may therefore be misleading. The CCF's Annual Report 2019-2020, Article 41, describes the situation and the General Secretariat's response as follows;

"... The General Secretariat stressed that "SLTD" being a "globally recognized brand" mentioned in various international directives (such as the EU, the UNSCR, etc.), its update may generate worldwide confusion. Nevertheless, it decided to put in place concrete measures to mitigate this issue and to ensure that internal and external communications will clearly promote INTERPOL SLTD as the repository for "stolen, lost, revoked, invalid, and stolen blank" documents."

Unfortunately, these arguments have emboldened countries known for their abuses of INTERPOL mechanisms and paved the way for them to ambiguously reintroduce into the SLTD database the passports that they have arbitrarily revoked or invalidated, despite the CCF's aforementioned concerns.

It is not known to us whether the General Secretariat has provided the "list of identified appropriate purposes" requested by the CCF to prevent misuse of databases. However, the General Secretariat has announced that it has updated the SLTD Standard Operating Procedures. Recent passport-related problems encountered at border crossings, which have been reported to our association, indicate that Turkey is or will be entering 60,000 passports invalidated by a new administrative decision into INTERPOL's SLTD database under the category "Stolen / lost / revoked / Invalidated Travel or Identity Documents," without explaining whether a passport is stolen, lost, revoked or invalid, or if invalid, why it is invalid.

This is precisely what the CCF was concerned about: when a person could not be apprehended through a Red Notice or diffusion, the SLTD system could be used at border crossings to locate and, if possible, even secure the extradition of that person.

In practice, the reasons for registering a passport as "revoked" or "invalid" and placing it in the SLTD remain unclear. At the very least, dissidents facing such problems do not know why their passports have been revoked or invalidated. Whereas, as stated by the CCF, in which cases passports will be deemed invalid should be specified in clear criteria, and if specified, it should be assessed whether it is political in nature and whether it serves the purpose of international police cooperation.

As previously brought to your attention and reflected in reports by international organizations and NGOs, all lawsuits against members, sympathizers and alleged members or sympathizers of the Gülen movement are political in nature. The Turkish government has summarily dismissed more than 100,000 public sector workers without due process. Turkey's judiciary, widely reported as operating under significant political control, investigated more than 2,000,000 people on terrorism-related charges on the sole basis of their links to the Gülen movement, based on indictments that lacked any evidential basis that points to individual wrongdoing and instead heavily relied on proving defendants' ties to the Gülen group on the basis of non-violent acts that by no means constituted criminal offences at the time they were committed. As a result, the trials of alleged Gülen followers are often in clear violation of such basic legal principles as individual criminal responsibility and non-retroactivity, as evidenced by a number of UN working group opinions and European Court of Human Rights judgments that faulted Turkey over their imprisonment.

The Turkish government's crackdown on dissent is by no means limited to Turkey's borders and the country has unfortunately become one of the names that most frequently come up in the context of transnational repression, including the abuse of international cooperation mechanisms towards politically motivated ends.

In this context, the actions of the Turkish government are in clear violation of Article 3 of INTERPOL's constitution, which stipulates that it is strictly forbidden for the organization to undertake any intervention or activities of a political, military, religious or racial character.

In our opinion, there is no difference between a malicious Red Notice request and the abuse of INTERPOL's SLTD database on the same grounds.

On the other hand, the administrative restrictions imposed by the Turkish Ministry of Interior on the basis of Article 22 of the Turkish Passport Law also infringe Turkey's own constitution, which, under its Article 23 stipulates that freedom of movement may only be restricted in line with a judicial decision. Furthermore, as mentioned above, while the Constitutional Court annulled the administrative restrictions on passports on June 3, 2021, the Ministry of Interior re-imposed administrative restrictions on some 60,000 passports on July 31, 2022.

This practice of the Turkish government is also contrary to Article 2 of INTERPOL's Constitution which states that one of the aims of the organization is *"to ensure and promote the widest possible mutual assistance between all criminal police authorities..."* and that this will be done *"in the spirit of the Universal Declaration of Human Rights."* The Turkish government's requests and the data it enters into INTERPOL systems contravene both its own constitution and that of INTERPOL.

The submission of politically motivated cases/files to INTERPOL violates Article 3 of the INTERPOL Constitution, while the arbitrary restriction of freedom of movement through administrative decisions is contrary to the spirit of the Universal Declaration of Human Rights and therefore contrary to Article 2 of INTERPOL's constitution. Thus, Turkey's requests (Red Notice/diffusion requests as well as the entry of dissidents' passports into the SLTD database) clearly violate INTERPOL's data processing rules.

The flexibility introduced in the use of the SLTD database may attract further criticism as it allows certain states to abuse the INTERPOL system more easily.

We, therefore, request the General Secretariat to stop using the SLTD as a repository for all passport cases or to request more detailed information from the source of information (the relevant NCB) as to why a passport was cancelled or invalidated. Even if a country known to frequently abuse INTERPOL explains the reasons for the request/data entry from its own legislation and perspective, as we have emphasized above, serious consideration should be given as to whether such requests and/or data entries are of a political nature, whether they are in the spirit of Universal Human Rights, whether they serve the purpose of international police cooperation and therefore comply with the INTERPOL's data processing rules. The States that do not comply with the rules should be restricted from entering data into INTERPOL databases, as has been rightly practiced in the past.

Given that even Red Notices can be deleted from INTERPOL's Information System when they are found to be "politically motivated," the data entered into the SLTD database on the basis of political offences should also be deleted and new entries should not be allowed.

In light of the foregoing explanations and justifications, we request the General Secretariat and the CCF to address the matter with utmost care and urgency.

Sincerely yours,

Yüksel Kaya

President

Note: This letter is being sent to the Commission for the Control of INTERPOL's Files (CCF) as well

ANNEXES:

Annex-1: The original letter of the Justice Ministry revealing its intention

Annex-2: The administrative decision of the Ministry of Interior stamped as confidential

Annex-3: Full translation of the Annex-2